



STATE OF MISSOURI

Office of Administration

Division of Personnel

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## ANSWERS TO YOUR FREQUENTLY ASKED QUESTIONS ABOUT COLLECTIVE BARGAINING

[Executive Order 01-09](#) was signed by Governor Bob Holden on June 29, 2001. The Office of Administration, Division of Personnel has responded to many questions regarding this executive order since that date. We hope this list of questions and answers is helpful to you. As always, you are welcome to contact us by e-mail at: [persmail@mail.state.mo.us](mailto:persmail@mail.state.mo.us), or by calling us at: 573-751-4162.

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### Did Governor Holden's Executive Order 01-09 make me a member of a union?

*No. Unless you were a union member before the Governor signed the executive order, you are not now a member.*

### Do all employees have to join a union now or at a later date?

*No. You can join a union if you wish but you are not required to do so.*

### How will Executive Order 01-09 impact my job?

*When and to what degree the Executive Order will impact a state employee depends on the meet and confer process within each department under the Governor's direct control. Each existing agreement between management and a union will need to be reviewed and revised through the meet and confer process. This could take from several weeks to several months.*

### Does the Executive Order or Missouri law allow me to participate in a strike or work stoppage?

*No, the Executive Order states that nothing in it "shall be construed as encouraging or authorizing employees to strike or engage in any other illegal economic activity".*

Missouri law ([36.510 RSMo 2000](#)) states that employees subject to merit system regulations and who engage in a strike or labor stoppage shall be subject to penalties provided elsewhere in the law. Further, [105.530 RSMo](#) states that nothing in that chapter should be construed as granting the right to strike.

## **Which agencies currently have unions?**

*Currently at least a portion of the following departments have employees who have selected unions to represent them:*

**Corrections/American Federation of State, County, and Municipal Employees (AFSCME)**-recognized since 1983

**Corrections-Probation & Parole/Service Employees International Union (SEIU)**-recognized since 1981

**Economic Development-Workforce Development/SEIU**-recognized since 1999

**Elementary & Secondary Education/MO Federation of Teachers (MFT)**-recognized since 1990

**Labor & Industrial Relations-Employment Security/SEIU**-recognized since 1984

**Labor & Industrial Relations- Commission on Human Rights/Communication Workers of America (CWA)**-recognized since 1986

**Mental Health/AFSCME**-recognized since 1977

**Mental Health/Missouri Nurses' Association (MONA)**-recognized since 1977

**Office of Adjutant General/International Association of Fire Fighters**-recognized since 1995

**Public Safety-Veterans' Commission, Veterans' Homes/AFSCME**-recognized since 1974

**Social Services/CWA**-recognized since 1984

**Transportation/International Union of Operating Engineers**-recognized since 1977

*Also, effective 8-28-01, the Division of Aging staff transferring from Social Services to Health will be represented by CWA.*

## **Which agencies do not have a union?**

*Several departments do not have a union and employees from each of those departments would have to hold appropriate elections in order for one to represent its employees. Those departments include:*

*Agriculture, Conservation, Higher Education, Insurance, Natural Resources, Office of Administration, Revenue and portions of Economic Development, Health, Labor & Industrial Relations, and Public Safety*

## **What is a bargaining unit?**

*Bargaining units are generally made up of groups of employees who share interests regarding the workplace often referred to as a "community of interest". The Office of Administration/Division of Personnel, the affected department or departments, and the union seeking to be a representative together develop preliminary proposals for the bargaining unit composition. Whether that proposed bargaining unit is appropriate is determined by the State Board of Mediation located in the Department of Labor and Industrial Relations, which schedules necessary meetings of all involved parties to discuss issues surrounding the proposal. It then makes and issues the final decision.*

*Bargaining units within Missouri state government typically consist of employees from an entire department or a division within a department, however, a union could attempt to organize horizontally and represent groups (titles) of employees across all departments.*

## **Can all employees in a department be in the bargaining unit?**

*Employees in management, supervisory, and/or confidential positions currently are excluded from participation in the bargaining unit.*

## **How do I know if my position is included in my department's bargaining unit?**

*Bargaining units have only been defined for the departments that currently have union representation. If your agency does not have a union, the determination of what positions will be in the unit will be made prior to an election. If you are unsure about your position, you may contact your department's personnel/human resources office.*

## **What is "meet and confer"?**

*Missouri's law ([105.520 RSMo 2000](#)) says that public bodies are required to "meet, confer and discuss" proposals presented to them by exclusive bargaining representatives (elected unions). These proposals, the law says, may be relative to salaries and other conditions of employment. Further, it says that when completed, the results of the meeting process will be presented to the appropriate administrative, legislative or other governing body when required for adoption, modification or rejection.*

## **What is impasse?**

*While Missouri law requires a meet and confer process, impasse sometimes occur and there is a deadlock where the parties the department and the union fail to agree on an item or items. Executive Order 01-09 sets out an impasse negotiation procedure to be used in that situation. The first step calls for mediation and if that isn't successful, arbitration.*

## **What is mediation?**

*Mediation involves participation of a third party who is not involved on either side of a particular issue along with the department's management staff and the union. The mediator's purpose is to work with both parties and help them resolve their disagreement. Within the provisions of Executive Order 01-09, a mediator's suggestions are non-binding and advisory.*

## **What is grievance arbitration?**

*The Executive Order requires that when a department and a union have disputes about the meaning and/or application of an agreement that an arbitrator hear and resolve the dispute. An arbitrator is a person who has the authority to decide how the dispute between the two groups should be resolved. His or her decision is final and binding **unless** the arbitrator's decision is in conflict with existing law or requires additional appropriation of funds.*

## **What is a service fee?**

*A service fee, sometimes called a "fair share" fee, may be a component of an agreement with a union. It is common in private sector agreements or contracts and is found in many agreements in public sector workplaces as well.*

*This fee is typically less than the amount of union dues that union members pay. The fee is paid by members of the bargaining unit who are not union members. Since a union is required to represent all employees in the bargaining unit whether or not those employees have actually joined the union, this fee ensures that everyone in the bargaining unit is contributing toward the costs of administration of an agreement, representation in grievance processes, etc.*

*Service fees can be used to cover the costs of negotiations, contract administration, and other activities pertinent to the union's function as a certified bargaining representative.*

*A union cannot use these fees for legislative or political activity.*

## **Will I be required to pay a service fee even if I choose not to join a union?**

*Updated August 17, 2001*

*Existing certified bargaining representatives cannot unilaterally impose a service fee or "fair share" payment upon members of a bargaining unit who have chosen not to join a union.*

*Fair share payments may be authorized through a Memorandum of Agreement negotiated between a state department and the certified bargaining representative. However, in negotiating such an agreement departments must consider whether the fair share payment is "appropriate and feasible in view of all the circumstances." Our interpretation of this language is that department would not include such a provision in the Memorandum of Agreement unless they know that a majority of the employees in the bargaining unit (who choose to express their opinions on this subject) favored a fair share provision. This interpretation would require that the department and the certified bargaining unit develop a method to determine the wishes of a majority of the bargaining unit members.*

## **What types of issues can unions and departments include in their negotiations?**

*Unions and departments may meet and confer and negotiate over issues including working conditions, salaries, and benefits. However, the Executive Order makes it clear the agreements or any arbitrator's recommendation that requires additional increases in appropriations must work through the legislative process.*

## **What is the State Board of Mediation?**

*The State Board of Mediation is located within the Department of Labor & Industrial Relations and has the responsibility of determining appropriate bargaining units of employees based on whether they share a "community of interest". The Board also has responsibility to determine what labor organization will be the certified bargaining representative for a bargaining unit by conducting an election.*

## **What does the State Board of Mediation do to recognize a union as a certified bargaining agent?**

*The State Board of Mediation requires that a state employee, a group of state employees, or any individual or employee organization claiming to be the majority representative of the employees bring proof to them typically through signed cards or petitions that 30% or more of employees eligible for the proposed bargaining unit are interested in having a union election. This is called a "showing of interest".*

*Assuming the Board agrees a union has met that condition, an election will be held. This election may be on-site at state facilities, may be conducted through mailed ballots, or a combination of both. The voting options may simply be a vote for the union that started the process or a vote for no union representation at all. It is possible that one or more unions may be interested in representing this bargaining unit in which case they could meet the Board's showing of interest requirements and have their names on the ballot, too.*

*After the election is held, the Board counts the votes. For a union to win it must receive at least 50% plus one vote of all those employees who voted. Voting is entirely voluntary and open to all employees eligible for the bargaining unit but the decision regarding which union is selected or whether a union will be selected is made only by those who cast a vote.*

## **What happens after a union wins a representation election?**

*The department will schedule a meeting with the union to open the meet and confer process.*

## **What if no union gets enough votes to win the representation election?**

*The State Board of Mediation will not allow another election for a one-year period. The employees in that department would not have union representation.*

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